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**FACSIMILE MESSAGE**

Date: April 21, 2006 To Fax No.: (571) 273-1057  
To: Ms. Wagstaff (1700) From: Kris Carroll  
Re: Serial No. Our Ref: IMI40008A  
10/812,370  
Total Pages: 7

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Dear Ms. Wagstaff:

Per our telephone conversation, please find attached an "Express Abandonment in Favor of Continuing Application" form along with a copy of our postcard, and a copy of the Patent Office's "Notice of Improper Request for Continued Examination" form.

Kris

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**NOTICE**

The information contained in this facsimile transmission is intended only for the Addressee named above and those properly entitled to access to the information. This transmission may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If the recipient of this transmission is not the intended or an authorized recipient, you are hereby notified that any unauthorized reading of the contents and any unauthorized distribution, dissemination, or duplication of this transmission is prohibited. If you have received this transmission in error, please immediately notify us by telephone or facsimile.

**EXPRESS ABANDONMENT IN FAVOR  
OF CONTINUING APPLICATION**

Applicant: Andrew J. Tobler  
Serial No.: 10/812,370  
Filed: March 29, 2004  
Title: ICE DISPENSE AGITATOR  
Enclosed: Express Abandonment in Favor of  
Continuing Application; postcard  
Our Ref.: IMI-40008  
RAL/dk

*Mailed: April 19, 2006*

IMI-40008

Practitioner's Docket No. \_\_\_\_\_

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Andrew J. Tobler

Application No.: 10 / 812,370 Group No.: 1723

Filed: March 29, 2004 Examiner: Charles E. Cooley

For: ICE DISPENSE AGITATOR

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**EXPRESS ABANDONMENT IN FAVOR OF CONTINUING APPLICATION**

NOTE: "To facilitate processing, any petition for an extension of time . . . in which a continuing application is filed in lieu of a reply should specifically refer to the filing of the continuing application and also should include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application." M.P.E.P., § 710.02(e), 8th Edition.

1. I request that the above-identified application be expressly abandoned as of the filing date accorded to the:

- ☐ continuation  
☒ continuation-in-part  
☐ divisional (where parent application is to be abandoned)

application filed herewith.

NOTE: "A letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action thereon." M.P.E.P., § 711.01, 8th Edition.

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- ☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 \*

- ☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

- ☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Signature

Deborah Konicki

Date: April 19, 2006

(type or print name of person certifying)

\* Only the date of filing (§ 1.5) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.5(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Express Abandonment in Favor of Continuing Application [4-5.1]—page 1 of 3)

**Authorization to Charge Additional Fees**

☒ The Office is hereby authorized to charge any fees that may be required by this paper.

Authorization is hereby made to charge any fees that may be required to Deposit Account 10-1324.

☒ A duplicate of this paper is attached.

(Express Abandonment in Favor of Continuing Application [4-5.1] - page 2 of 3)

(complete the following applicable items)

NOTE: 37 C.F.R. 1.138(b): "A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34(a) when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application."

**A. Inventors**

(Type or print name of inventor)

Signature of inventor

(add similar signatures for all inventors)

**B. Assignee**

(Type or print name of person authorized to sign on behalf of assignee)

Signature of person authorized to sign on behalf of assignee

(type name of assignee)

Address of assignee

Title of person authorized to sign on behalf of assignee

Assignment recorded on

Reel

Frame

A "CERTIFICATE UNDER 37 C.F.R. § 3.73(b)" is attached

**C. Attorney Under 37 C.F.R. § 1.34(a)**

Reg. No. 25,694

Tel. No. ( )

Customer No. 22015

SIGNATURE OF PRACTITIONER

Robert A. Lloyd

(type or print name of practitioner)

P.O. Address

(Express Abandonment in Favor of Continuing Application [4-A.1]-page 2 of 3)



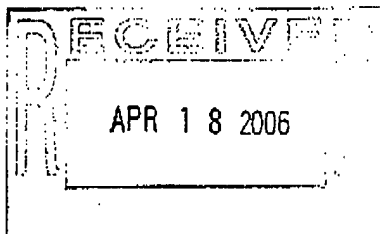
## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/812,370      | 03/29/2004  | Andrew J. Tobler     | IMI 40008           | 7611             |

7590  
Robert A. Lloyd  
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Suite 850  
221 N. LaSalle Street  
Chicago, IL 60601

04/14/2006



EXAMINER

COOLEY, CHARLES E

ART UNIT PAPER NUMBER

1723

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



United States Patent and Trademark Office

P.O. Box 1450  
Alexandria, VA 22313-1450  
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| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-------------|-----------------------|------------------------|
|--------------------|-------------|-----------------------|------------------------|

10/8/2, 370

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3/20/6 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions concerning this notice to:

Mamye Wagstaff, Technology Center 1700  
(703) 571-272-1057

FORM PTO-2051 (Rev. 7/2003)